

1 to 1

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TYRONE P. JAMES,
Plaintiff,

v.

YORK COUNTY POLICE
DEPARTMENT, AGENT JAMES H.
MORGAN, DET. RICHARD
PETTICORD, DET. RAYMOND E.
CRAUL, DET. JEAN FELS, DET.
KESSLER, C/O BAYLARK,
Defendants.

Civil Action No. 1:01 CV-1015

Hon. Judge Yvette Kane
Courtroom: 3

FILED
HARRISBURG, PA

MAR 12 2004

MARV E. D'ANDREA, CLERK
Per 918
Deputy Clerk

DECLARATION OF RANDELL SIPES

I, RANDELL SIPES, declare as follows:

1. I am, and at all times mentioned in the complaint mailed to me in the captioned case, was, employed by the California Department of Justice, Bureau of Narcotic Enforcement, State of California, as a Special Agent.

2. During all times mentioned in the complaint mailed to me in the captioned case, I was employed as above in Los Angeles and Riverside Counties, California. At this time I resided in San Bernardino County, California.

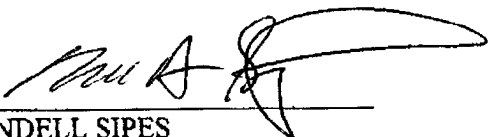
3. As part of the incident evidently underlying this complaint, I telephonically contacted the Pennsylvania Office of the Attorney General, and shipped a package to the office. I did not travel to Pennsylvania, EXCEPT TO TESTIFY IN SEPTEMBER, 2001.

4. In February, 2004, I received the attached summons and complaint, and other documents by mail. (Exhibit 1 to Declaration.) There was no indication on or inside the envelope that the package was sent registered or certified mail. The U.S. Postage meter paper affixed to the upper right corner of the envelope shows postage of \$.83. A copy of the envelope is also attached. (Exhibit 2 to Declaration.)

5. There was no waiver of service directed to me in the mailed package.

6. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 11th day of March, 2004, in Los Angeles, California.



RANDELL SIPES

United States District Court

MIDDLE DISTRICT OF PENNSYLVANIA

TYRONE P. JAMES
Plaintiff

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER: 1:CV-01-1015
Judge Kane

RANDY SIPES
Defendant

TO: (Name and address of defendant)

(SEE COMPLT.)

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Tyrone P. James
SCICamp Hill
P.O.Box 200
Camp Hill, Pa. 17001

an answer to the complaint which is herewith served upon you, within (20) Twenty days after service of summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Mary E. D'Andrea, Clerk
CLERK

February 11, 2004
DATE


(BY) DEPUTY CLERK George T. Gardner

FORM TO BE USED BY A PRISONER IN FILING A CIVIL RIGHTS COMPLAINT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Tyrone P. James
(Inmate Number)

(Name of Plaintiff)

York Co. Prison, 3400 Concord Rd
(Address of Plaintiff)

York, Pennsylvania 17402

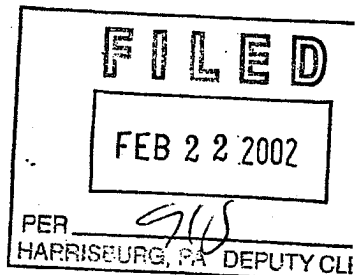
vs.

York County Police Department,
Agent James H. Morgan, Det. Richard
Peddicord, Det. Raymond E. Craul,
(Names of Defendants)

Det. Jean Fells, Det. Kessler, C/O Baylark
TO BE FILED UNDER: X 42 U.S.C. § 1983 - STATE OFFICIALS
_____ 28 U.S.C. § 1331 - FEDERAL OFFICIALS

(Case Number)

COMPLAINT



I. Previous Lawsuits

- A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

N/A

II. Exhaustion of Administrative Remedies

- A. Is there a grievance procedure available at your institution?
____ Yes X No
- B. Have you filed a grievance concerning the facts relating to this complaint?
____ Yes X No

If your answer is no, explain why not This matter is a Federal matter and

Constitution rights and Federal laws have been violated.

- C. Is the grievance process completed? ____ Yes X No

Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

A. Defendant York County Police Department/Agent James H. Morgan employed as Agent 7 Investigator at Attorney general Bureau of Narcotic Investigation and Drug Control.

B. Additional defendants Det. Richard Peddicord, Det. Raymond E. Craul, Det. Jean Fells, Det. Kessler, York County Drug Task Force; Correctional Officer Baylark, York County Prison.

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. On January 10, 2001 I was retrieving my mail from a mail box rental at Mail Box Etc. at 2536 Eastern Blvd, York. 2. Upon me exiting the building, I was approached by several individual who looked like Thugs. They didn't identify themselves as Police officers. 3. I had retrieved a make shift box from the clerk inside the office, upon exiting the building and these individual approaching me, I dropped the "Make shift box" and strated moving away from them. 4. Suddenly I was hit by a van, driven by one of the defendants and subsequently thrown to the ground and stepped upon by the defendants numerous time. I was trampled upon, handcuffed, and taken hold of my person, along with my personal belonging, including: Wallets, Keys, both for car and house keys. The use of excessive force were in force at all time. I was place in the same van 5. Upon entering the van I was approached by defendant

James H. Margan who asked me, " If I knew what was in the package?" Without explaining what was the purpose for the stop or what was I been

3. arrested for. I was never read my Miranda Right by any of the defendants. 6. Upon my arrest, I was taken to the York County Police Department, where I was Interrogated by James H. Morgan. I asked him on several occasions for a telephone call so as to inform my family of my situation and to call an attorney, which I was denied. 7. I was again questioned by Defendant James Morgan, at that time defendant Richard Peddicord had taken my personal papers, business card, credit cards, Lawyer network cards, airline frequent flyer card from my wallets. I was in custody from approximately 10:35am, until

Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. 1.1. Preliminary/Permanent injunction-Prohibits the defendants their successors, in office, agents and employees and all other person in active concert or collusion any participation of them from harassing threaten punishing or retaliating in any way against plaintiff. Bar from any form of administrative harassment to him or his Family. 2. Prohibit defendants from any contact with plaintiff stay or transfer to another Institution pending of this action. 3. Recommend and stipulate that the pending charges are to be dismiss in State and Federal Court that are cause by or from these violation and as the court deems just and proper in due form of law. 4. Order the York County Common Pleas Court and District attorney office to returned all seized property and frozen bank accounts own by Plaintiff; Because they are directly causing my family extreme undue economic hardship and deprivation. 5. Order a full Investigation upon finding to verify complaint, court should sanction against officers for any misconduct the officers that had committed by depriving plaintiff of his Constitutional rights and violation of Federal law and civil rights to prevent any futher misconduct from happening in the future.
2. 2.1. Compensatory damages/ Monetary damages five (\$) millions dollars for violation of my Constitutional Rights. (Continue on A-2 Relief

Signed this _____ day of _____, 19____.

(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

(Date)

(Signature of Plaintiff)

8. I was later charged and processed by defendant Raymond Craul.

9. I was in custody from approximately 10:35am, until 10:30 pm, at which time I was taken to appear before the magistrate Judge, who issued me an excessive bond and eventually took me to York County Prison.

10. At admission I requested a phone call to call my family to obtain an attorney, I was denied by James H. Morgan, who instructed correctional officers, Baylark and Asbury, "Not to give me any phone calls pending investigation." I was later denied phone call by C/O Baylark that same night. In total, I was denied telephone access from January 10, 2001, until January 12, 2001.

11. I was continually subjected to steady and persistent questioning by defendants from January 10, 2001, until January 12, 2001; Even when I inform defendants about they denied me a phone call, I was disabled, and I would not speak to them without an attorney.

12. Upon my release into population, I was informed that my wife had also been questioned about the occurrence, yet was not informed as to my whereabouts since that time, she was also been harassed by defendants.

13. On Friday January 12, 2001, I was escorted by a constable to the West King Street Magistrate, where I greeted by defendants James Morgan and Richard Peddicord, I was taken before the magistrate, was charged and held on \$225 million bond. I have been incarcerated from that time until the present time. The bond is "Cash Only".

14. On February 22, 2001, while in District Justice Vera Heilman office for a preliminary hearing my wife and her Sister was harassed by defendant James H. Morgan, defendant Kessler, and Defendant Richard Peddicord.

15. James Morgan, asked my wife and her Sister for their name, home and work phone numbers, If they refuse to give it to him, He would lock them up and hold them in contempt of direct order. I informed District Justice, Vera Heilman.

LEGAL CLAIM

1. Defendants are in violation of my Fourth amendment: Warrantless search and seizure, Illegal search and seizure, unlawful arrest, wrongful arrest and detention, invasion of privacy, violation of Due process, and Entrapment.

2. Fifth amendment as to self incrimination, by using psychological and coercive tactic in gathering evidence. Coersion under duress. Interrogation after counsel was requested. Threat of more serious consequences, using a ruse for entrapment. Failure of Miranda Rights,

3. Sixth amendment: Denied access to counsel, and Due Process of the law, when defendants fail to give Plaintiff the phone calls he requested, privilege against the inherently coercive effects of custodial interrogation. Entrapment as to coercive tactic.

4 Fourteenth amendment: Violation when defendants, acted under the color of State law deprive me of life, liberty, and property without the due process of law; When defendants use deliberate indifference.

5. Eight amendment violation as to the use of excessive bond. Bond that is unreasonable to Plaintiff. As to the use of excessive force when defendants arrested plaintiff.

6. I further accused defendants of: Police misconduct, negligence, conspiracy and corruption, entrapment, perjury, making false statements, under Oaths, Police harassment, discrimination, bias, and prejudice, who also violated my equal protection under the law.

RELIEFS

2. For mental stress and emotional, anguish, psychological injuries, trauma suffered due to detention caused by defendants, in the amount of \$500,000.00.

Punitive damages: 1. For reckless, callous, wanton, malicious, and intentional disregard for plaintiff rights and intentional violation of Federal law and Constitutional rights, in the amount of \$1,000,000.00.

2. In the amount of \$ 250,000, for Harassment cause by defendants that cause my wife stress, anguish, and trauma, and hardship suffered by these violation.

3. Deliberate Indifference in the amount of \$250,000.00, suffered by plaintiff and wife, due to Police misconduct and the private interest affected. Unlawful entry, intentional aggregation due to unlawful aggressive questioning and interrogation.

Declaratory relief: 1. That the defendants actions Policies, and practices described here in violated plaintiff rights under the United

DECLARATORY RELIEFS

2. A Jury trial on all issues triable by Jury.
3. Plaintiff cost of this suit and attorney fee the court deem just and proper.
4. Court may grant other relief as this Court deem just, proper and equitable.

(15)

WAIVER OF SERVICE OF SUMMONS.

TO:

Tyrone P. James

(Name of plaintiff's attorney or pro se plaintiff)

I acknowledge receipt of your request that I waive service of a summons in the action of James VS

York County Police Dept.

which is case number CV-01-1015 in the United States District Court for the Middle District of Pennsylvania. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for the objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after 6-18 (date request was sent), or within 90 days after that date if the request was sent outside the United States.

FILED
SCRANTON
JUL 08 2002

Date

7/3/02

Signature

Linda S. Lloyd

DEPUTY CLERK

Printed/typed name:

Linda S. Lloyd

Title if any:

Deputy Attorney General

Address of person signing:

15th Floor, Strawberry Square
Harrisburg PA 17120

Representing defendant(s) if any:

James H. Morgan, Richard Peddicord,
Raymond Craul, Gene Fells, Detective
Kessler, Brian K. Westmoreland and
Detective Glowczeski



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

July 3, 2002

MIKE FISHER
ATTORNEY GENERAL

Litigation Section
15th Floor, Strawberry Square
Harrisburg, PA 17120
Phone (717) 705-7327
Fax (717) 772-4526

United States Marshal
P.O. Box 310
Scranton, PA 18501

Re: James v. York County Police Dept., et al.
No. 1:CV-01-1015 (M.D.Pa.)
(Judge Kane) (Magistrate Judge Mannion)

Dear Sir/Madam:

I am again returning the signed waiver of service on behalf of defendants Morgan, Peddicord, Craul, Fells, Kessler, Westmoreland and Glowczeski in the above captioned case.

I would like to bring to the Court's attention that a motion to dismiss was filed on behalf of these defendants on December 28, 2001, with a brief in support filed on January 14, 2002. The motion is now pending before the Court.

If there are any questions about this case please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Linda S. Lloyd".

LINDA S. LLOYD
Deputy Attorney General

LSL/lac
Enclosure

USM
copy

AO 440 (Rev. 10/93) Summons in a Civil Case

United States District Court

MIDDLE DISTRICT OF PENNSYLVANIA

SUMMONS IN A CIVIL CASE

TYRONE P. JAMES,
Plaintiff

CASE NUMBER: 1:CV-01-1015

Judge Yvette Kane

v.

YORK COUNTY POLICE DEPT., ET AL..
Defendants

To: (For the name and address of defendant(s): **SEE COMPLAINT**)

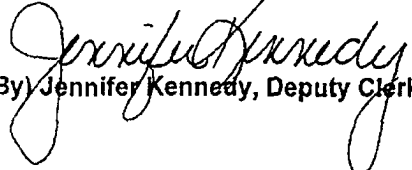
YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY:

Tyrone P. James
SCI-Camp Hill
P.O. Box 200
Camp Hill, PA 17001

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

MARY E. D'ANDREA, Clerk

DATE: April 29, 2002


(By) Jennifer Kennedy, Deputy Clerk

U.S. Department of Justice
United States Marshals Service**PROCESS RECEIPT AND RETURN**See Instructions for "Service of Process by the U.S. Marshal"
on the reverse of this form.

PLAINTIFF	Tyrone P. James		COURT CASE NUMBER	1:01-CV-01015
DEFENDANT	Agent Randy Sipes		TYPE OF PROCESS	Complaint
SERVE ➔	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN			
	Agent Randy Sipes			
AT	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)			
	California Department of Justice, Office of the Attorney General, Narcotic Div. Riverside CALIF			
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:			Number of process to be served with this Form - 285	1
Tyrone P. James York County Prison 3400 Concord Road York, PA. 17402.			Number of parties to be served in this case	1
			Check for service on U.S.A.	1

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):
Fold**FILED
SCRANTON**

JUL 08 2002

Signature of Attorney or other Originator requesting service on behalf of:

Tyrone James

☒ PLAINTIFF
☐ DEFENDANT

TELEPHONE NUMBER

DATE

9/21/01

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin No. 67	District to Serve No. 67	Signature of Authorized USMS Deputy or Clerk Andrew Lavelle	Date 2/28/02
---	---------------	------------------------------	-----------------------------	--	-----------------

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Address (complete only if different than shown above)

Date of Service	Time	am
		pm

Signature of U.S. Marshal or Deputy

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
-------------	--	----------------	---------------	------------------	--------------------------------	------------------

REMARKS:

Unexecuted
 Insufficient Address

A. Lavelle

U.S. Department of Justice
United States Marshals Service
Middle District of Pennsylvania
5 U.S. Federal Building
Washington Ave. & Linden St.
Pottsville, PA 18503
Official Business
Penalty for Private Use \$300

**INSUFFICIENT
ADDRESS**

Deputy County Xipha
Attorney General's Office
Prosecution Division
Chenoweth, Calif.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TYRONE P. JAMES,
Plaintiff

v.

YORK COUNTY POLICE
DEPARTMENT, JAMES H. MORGAN,
RICHARD PEDDICORD, RAYMOND
E. CRAUL, GENE FELLS, DET.
KESSLER, CO. BAYLARK, RANDY
SNIPES, BRIAN WESTMORELAND,
and DETECTIVE GLOWCZESKI,
Defendants

CIVIL ACTION NO. 1:01-CV-1015

(Judge Kane)

ORDER

Plaintiff Tyrone James has filed a request for entry of default against Defendant Randy Sipes for failure to plead or otherwise defend this action. (Doc. No. 113). The request must be denied, as this Defendant has never been served. (See Doc. No. 75, waiver of service of summons). Although this Court ordered the U.S. Marshal to serve Sipes along with several other Defendants, the summons was returned for insufficient address. (See docket notation regarding summons following entry No. 70; Doc. No. 75). It appears that Plaintiff was never notified of this. Therefore, **IT IS ORDERED THAT** the Clerk of Court shall again attempt to serve Defendant Randy Sipes at the last known address. Plaintiff shall be notified as to whether service was affected.

S/ Yvette Kane
Yvette Kane
United States District Judge

Date: February 10, 2003

OFFICE OF THE CLERK - ROOM 1060
UNITED STATES DISTRICT COURT

228 WALNUT STREET
P.O. BOX 983
HARRISBURG, PA 17108

OFFICIAL BUSINESS

RECEIVED
FEB 17 2004
2004 FEB 17 PM 1:46

Randy Sipes
Bureau of Narcotics Enforcement
4200 Latham Street
Suite D
Riverside, CA 92501

TO: INAGSTAFF -
CINDY -
MSB -
THANKS -
PAUL